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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,501	01/26/2004	David Eugene Huddleston	DEH1001	2563
7590 09/08/2005				
DAVID E. HUDDLESTON		EXAMINER		
1352 BONNIEVIEW AVE.		BUI, LUAN KIM		
LAKEWOOD, OH 44107				
		ART UNIT	PAPER NUMBER	
		3728		

DATE MAILED: 09/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/765,501

**Applicant(s)**

HUDDLESTON, DAVID EUGENE

**Examiner**

Luan K. Bui

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/29/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

***Information Disclosure Statement***

1. The information disclosure statement filed 3/29/2004 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because some of the document numbers are incorrectly listed for example US-139,335 and US-19591 and most of the non patent literature documents have not been considered because each document requires title of the article, date (the article was printed on ...), page (s). Applicant is required to provide the correct information on each document has not been considered by the Examiner.

***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the clipping means as recited in claim 11 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

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application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrases "state." and "mouth." in claim 1 and "unit.", "mouth.", "open" in claim 11 are incomplete and indefinite. Regarding claims 5, 10, 15 and 20, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d). The phrases "A means to mate a drawstring" and "A means to serve as a drawstring" in claim 1 and "A means to mate a draw-wire means" and "An uncompressable means to serve as a draw-wire" in claim 11 are confusion and indefinite because those phrases have no clear meaning. Clarification is required. In claim 11, the phrase "the carrier bag" lacks proper antecedent basis. What is the difference between the phrases "clipping means" in claim 11 and "attaching means" in claim 15?

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***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 2 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Lindheim (213,580). To the extent that the Examiner can determine the scope of the claims, Lindheim discloses a carrier (A) comprising a suitably sized bag of flexible material and the bag having a flared mouth in the relaxed and unsecured state, a means to mate a drawstring (D) with the mouth of the bag and a means to serve as a drawstring for closing the bag. The bag of Lindheim is inherently capable of holding a cell phone.

As to claim 4, the bag of Lindheim is inherently capable of carrying eyeglasses or any of a variety of small electronic items as claimed.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lindheim (213,580) in view of Kahl (2005/0072698). Lindheim discloses the carrier (A) as above having all the limitations of the claim except for the carrier comprises indicia. Kahl teaches a bag having a graphic indicia (Figure 4 and claim 7). It would have been obvious to one having ordinary skill in the art in view of Kahl to modify the bag of Lindheim so it includes indicia for decorative purposes.

10. Claims 5, 9, 11-15 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over the reference as applied to claim 1 above, and further in view of Furlow et al. (4,974,709; hereinafter Furlow'709). Lindheim fails to show an attaching means being affixed to the end of the drawstring means. Furlow'709 shows a bag (10) having an attaching means (87, 89) affixed to the end of the straps (86, 88) (Figure 5). It would have been obvious to one having ordinary skill in the art in view of Furlow'709 to modify the bag of Lindheim so the end of the drawstring means includes an attaching means to facilitate folding the bag for storage. The bag of Lindheim as modified with the attaching means and the attaching means is capable for attaching the bag to the user's clothing.

11. Claims 6, 8, 10, 16, 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1 and 11 above, and further in view of Tabler (665,942).

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Lindheim fails to show the bag includes one or more handles. Tabler teaches a bag (A) comprises one or more handles (23) for handling the bag. It would have been obvious to one having ordinary skill in the art in view of Tabler to modify the bag of Lindheim as modified so the bag includes one or more handles for handling the bag. It would have been obvious to one having ordinary skill in the art in view of Kahl or Furlow'709 or Tabler to modify the bag so it made from the material as claimed because it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

12. Claims 7 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1 and 11 above, and further in view of Pollak et al. (3,225,806; hereinafter Pollak'806). Lindheim further fails to show the bag comprises an external holder. Pollak'806 shows the bag (20) having an external holder (23, 24) (Figure 1). It would have been obvious to one having ordinary skill in the art in view of Pollak'806 to modify the bag of Lindheim so it includes an external holder to facilitate holding an additional item such as an identification card.



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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is (571) 272-4552. If in receiving this Office Action, it is apparent to Applicant that certain documents are missing from the record for example copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Ms. Errica Miller at (571) 272-4370.

Any inquiry of a general nature or relating to the status of this application should be directed to the Customer Service whose telephone number is (703) 306-5648. Facsimile correspondence for this application should be sent to (571) 273-8300 for Formal papers and After Final communications.

lkb  
September 6, 2005

A handwritten signature in black ink, appearing to read 'Luan K. Bui', with a horizontal line underneath the signature.

Luan K. Bui  
Primary Examiner